

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

FIRST APPEAL No 5318 of 1997

M/S. TULSI CONSTRUCTION
VERSUS
O.N.G.C.

Appearance:

MR RN SHAH for the Appellant

CORAM : MR JUSTICE S.K. KESHOTE
Date of Order : 23/09/98

C.A.V. ORDER

1. This appeal is directed by the original plaintiff-appellant before this court against the judgment and decree passed by the 2nd Joint Civil Judge, (S.D.) Bharuch on 9-5-1997 in special civil suit No.60/97 under which the decree has been passed in terms of the award which has been produced on record vide mark 7/1.

2. In this appeal, only grievance of the plaintiff-appellant is to that part of the judgment and decree where the arbitrator has accepted the counter claim of the defendant-respondent O.N.G.C. as well as the interest awarded thereon.

3. Learned counsel for the appellant during the course of arguments of this appeal has very fairly conceded that in view of the order of the Reference made to the arbitrator, the arbitrator was within its competence to entertain and adjudicate the counter claim filed by O.N.G.C.. However, his main thrust of the argument is to that part of the award where the interest has been awarded to the defendant-O.N.G.C. on its counter claim.

4. Learned counsel for the appellant failed to show how this interest on counter claim could not have been

awarded by the arbitrator. Once the arbitrator has adjudicated the counter claim of the respondent then on its acceptance the interest could have been awarded and it has rightly been awarded. Learned trial court has not committed any error in making the award to be the rule of the court.

No other point has been raised.

5. In the result, this appeal fails and the same is dismissed.

(S.K.Keshote,J)

zgs/-